

FLINT TELECOM INC

Request for a limited waiver of FCC E911 order of 3rd June 2005. **Expedited Action Requested**

- E911 requirements for IP Enabled Service Providers – WC Docket 05/196

In accordance with Section 1.3 of the FCC rules, Flint Telecom Inc hereby respectfully request the FCC to grant its request for a limited waiver of the November 28th 2005 deadline for Interconnected VoIP Service Providers to provide E911 Services as detailed in the FCC Order of 3rd June 2005. Due to the imminent nature of the deadline, Flint requests that the FCC grant such relief on an expedited basis if possible.

1) Introduction

Flint Telecom Inc ("Flint") is a small privately owned VOIP provider based in Utah. Our Parent Company Flint Telecom Limited is based in Ireland and has a number of VoIP operations within various European countries.

Flint have recently launched our VoIP services to customers across the United States, which are sold to End Users ("Customers") through a number of third party organizations ("Partners") including Internet Service Providers, Telecom Resellers and various Affinity groups. Whilst these Partners act as our channel to market, Flint are solely responsible for providing and maintaining all aspects of the VoIP service, including delivery of 911 calls and the sign-up process for Customers.

Flint have taken a number of steps to ensure compliance with the FCC E911 ruling which have had a significant financial and resource impact across the organization. Our activities to ensure compliance are fully detailed in the paragraphs below.

2) 911 Solution

a) Background

Whilst Flint Telecom Inc have only began operations in the USA during 2005, we are fully aware of the FCC E911 regulations and have been determined to comply with these since the 3rd June 2005 order. Although we have only begun providing VoIP services to customers in recent weeks, we have however put a number of steps in place over the last 4 months, to ensure that we fully meet the FCC requirements.

In order to meet these, Flint initially reviewed a number of solutions including the development of our own internal E911 platform. It was quickly recognized that we did not have the legal authority to enable us interconnect directly with selective routers within the E911 network. Furthermore as a small start-up organization with no customers at that time, we did not have the resources, expertise or capital available to obtain the appropriate licences and develop an internal solution within the 4 month compliance period.

We therefore looked at using third party providers of E911 services and reviewed a number of offerings to identify the provider best able to meet our requirements. As

Partners are marketing Flint Services on a Nationwide basis, we therefore required a third-party-provider who could provide 100% E911 coverage across the United States.

The third party offers reviewed covered a variety of services; however the majority of those available had a significant number of limitations, with issues arising such as:

- The lack of a commitment or plan to offer Nationwide E911 services,
- The bundling of an E911 solution with VoIP Termination services,
- The service still being in concept stage with no confidence of its availability to meet the FCC deadline,
- The inability to deliver 911 calls in compliance with the FCC regulations,

Following this review, Flint selected the HBF Group (911 Services, LLC Group Inc) as our third-party provider of our E911 requirements. They are currently implementing a solution which will provide a Nationwide E911 service, however 100% coverage will not be available prior to 28th November for a number of reasons as detailed within the following paragraphs.

a) 911 Routing Information/Connectivity to Wireline E911 Network:

We subsequently contracted with our third-party provider and have been working actively with them to meet the deadline. At present we are currently connected to their I1 solution which supports a Basic 911 service and provides 100% coverage across the United States. In the event a call cannot be delivered directly to the PSAP, the call is routed to a national call center with trained emergency operators. This 24/7 support is beyond the requirements of the FCC order.

The FCC order requires access to selective routers for delivery of 911 calls to PSAP's which is an extremely costly and time-consuming procedure. This solution requires physical interconnection to over 650 selective routers owned by the ILECS as well as conversion of the call from IP to TDM. There are very few carriers capable of meeting this requirement and the majority of these are CLECs, such as Level 3, Global Crossing, and XO.

However, none of these offer 100% nationwide coverage and again there are varying levels of support offered by such services. Each of these carriers also requires use of their own DIDs in order to use their E911 infrastructure and does not support numbers belonging to other carriers. They also require substantial upfront investments along with high recurring monthly charges. Finally, these existing solutions only support static numbers and cannot support out of area telephone numbers (foreign NPA/NXXs). For that we need a VPC provider.

Our third-party provider is also a VPC provider and has contracted with a number of CLECs. They can currently cover over 70% of the US population with an E911 solution and are also in negotiations to interconnect with a number of other CLECs and ILEC's as appropriate, in order to reach the rest of the US population.

However full E911 coverage is not yet available nationwide and will not be completed by November 28th. It is estimated that this will take a further 2- 6 months to complete, although the actual timescales are dependent upon a number of factors, not least the level of co-operation from ILEC's.

b) Transmission of ANI and Registered Location Information:

Our third-party provider has been actively involved in developing a service to meet the requirements of this order in full, however given the short timeframes this is proving very difficult.

Delivery of ANI and registered location information to the PSAP requires connection agreements with all the ILECs, frame relay circuits to all the ALI databases, testing of links and data exchange, and loading of ESQs into all the ALI databases. The circuit ordering timeframe is usually 4-6 weeks. Some of the smaller ILECs still do not have their VoIP ordering processes in place so no circuits have been ordered. Our third-party provider is installing these circuits but the 120 day timeframe from the FCC did not allow enough time to negotiate interconnection agreements with the ILECs and then order the circuits.

In addition, ESQs have to be assigned and allocated. This issue current sits with the FCC to name an interim administrator for these non-dialable numbers. Without FCC guidance, it is nearly impossible to deploy services on a nationwide basis. This is stated in an ex parte filing from Tom Goode, Associate General Counsel of the Alliance for Telecommunications Solutions' (ATIS) Emergency Service Interconnection Forum (ESIF), to the Honorable Kevin J. Martin, Chairman, Federal Communications Commission:

"On September 8, 2005, the NANC submitted these recommendations to the Chief of the Wireline Competition Bureau for approval. Included in this submission was a timeframe indicating that pANI administration for VoIP needed to commence by October 3, 2005, in order for all involved parties to meet the Commission's November 28, 2005, deadline for VoIP E9-1-1 solutions. However, as of the date of this letter, the Interim Routing Number Authority has not been established.

In the absence of a centralized pANI administrator and guidelines, VoIP Service Providers (VSPs) and other parties developing VoIP E9-1-1 solutions may not be able to meet the November 28, 2005, deadline for E9-1-1 service. This is contrary to ESIF's mission to advance emergency communications technology, and does not serve the public interest. In a significant part of the U.S., there is no mechanism for pANI administration. Without this administration, a VSP would need to use dialable numbers, an ineffective solution. Further, a VSP may not have access to these numbers on a nationwide basis,

which could lead to additional delays in meeting the Commission's November 28, 2005, deadline.

ESIF recognizes that, even if the Commission were to approve the NANC recommendations quickly, a number of requests for extension of the November 28, 2005, deadline likely will still be filed. However, a delay in Commission action would likely further frustrate the implementation of VoIP E-9-1-1 solutions. The anticipated Interim RNA has indicated that it will need 30 days after the Commission's decision to begin pANI allocation. Further, based on feedback from VSPs and VoIP Positioning Center companies, the deployment and testing of these ESQKs will take another 60 to 90 days."

Finally, this solution requires testing with over 6000 PSAPs to meet the deadline. This takes time as each PSAP must be tested with each ESQK. Again the 120 day timeframe doesn't allow enough time to get interconnection agreements with each ILEC, provision circuits, create ESQK shell records, and then schedule/execute testing with 6000 PSAPs. Our third-party provider has this effort underway but it is time consuming exercise. The wireless industry has had years to perform this same task and they are not complete yet.

Until these issues are resolved, our third-party provider has developed a web-based solution which is currently in use. This allows PSAPs to see the real-time ANI/ALI information for each VoIP call and gives the PSAP access to callback information when the call is delivered.

c. 911 Coverage:

Based on the above issues, full nationwide compliance has not yet been achieved. However, our third-party provider currently offers E911 coverage across 70% of the US population and has been actively working with NENA, ATIS, the VON Coalition, as well as with every ILEC to complete the ESQK assignment process and finalize the ANI/ALI links. In addition, access to the selective routers is being achieved through partnerships with CLECs throughout the country. This is an extremely time-consuming and costly process which is multiplied given the tight timeframes.

As a consequence, we believe that no VoIP carrier will be able to meet the full E911 requirements on a nationwide basis by the 28th November deadline.

3. Obtaining Initial Registered Location Information:

Flint have taken a number of steps to ensure that we capture accurate and complete Registered Location information from our End Users, which meets the FCC requirements.

As part of our VoIP service, Flint provide and manage a standard sign-up process for each of our Partners to ensure that these are consistent and conform to current FCC

requirements. This includes the provision of a standard set of terms and conditions which Partner must use to sign up their Customers.

These terms are maintained by Flint as part of the sign-up process and cannot be changed by the Partner. They clearly state the limitations of VoIP 911 services in comparison to traditional 911 services and advise the Customer that they must advise the Registered Location where the CPE will be installed at and notify any changes to this. Details of the relevant clauses within this agreement which relate to the entry and maintenance of the Registered Location are shown below.

Registration of Physical Location Required

Each End user of the PARTNERS Service, must register the physical location of where each device will be located and Service will be used, prior to activation of the Service. Only one physical location may be registered for each phone line used with the Service.

Should the End User change, add or port a new phone number for association with any Device, End User will be required to formally confirm the Registered Location for each device in accordance with Section 2.4) below, prior to activation of the Service.

Where the End User moves any Device to another location, the End User must immediately notify PARTNER and register the new location and effective date. PARTNER requires a minimum of 2 business days notice for this change to become effective.

The End User can notify PARTNER of a change of Registered Location by updating details on their personal webpage, by either e-mail to XXXX@***.com; or by calling our Customer Care Department on XXXXX. Any failure to register a new location, will result in any 911 calls made from device continuing to be sent to the emergency center which is appropriate for the address currently registered for that Device.

Confirmation of Registered Location

We will send an e-mail to you immediately following your subscription to the Service requesting that you enter details of your Registered Location for 911 / E911 purposes to an appropriate webpage. This webpage will also detail some important differences between PARTNERS 911 and E911 services in comparison to traditional 911 and E911 services. End User must enter details of their Registered Address and formally acknowledge that they accept and understand the limitations of PARTNERS 911 and E911 service.

PARTNERS Service will not be activated for any phone line that you are using with the Service, unless PARTNER receives details of the End Users Registered Address and formal acceptance of the 911 and E911 limitations. Upon such receipt and acceptance, PARTNER will provide an e-mail to Customer confirming that the Service including 911 dialing features has been activated for that phone line.

Once the Customer has accepted the overall terms and conditions, they are then directed to a standard webpage which is again provided and operated by Flint which is branded for each of our Partners. This webpage requests the Customer to enter details of their Registered Location

Once this information has been entered, the Customer must then confirm that they understand the 911 VoIP limitations and click on an acceptance button. This will immediately submit details of the Registered Location entered to our third-party-provider, who will automatically validate this with their address database. This will either accept the Registered Location as a valid address or reject this as an incorrect entry.

Where the Registered Location is accepted as a valid address, this will be entered onto the third-party-providers 911 database, confirmed to Flint and notified to the customer by e-mail. Where the address is rejected, the Customer will be advised to amend their Registered Location details and will be unable to activate their VoIP service until this has been corrected.

This process therefore ensures that Flint :

- a) Capture and validate Registered Location details provided by the Customer and
- b) Do not provide any VoIP service to a Customer in the absence of this information.

As a result of this process, Flint currently have Registered Location details for 100% of our Customer base.

4. Updating Registered Location details

Flint have also implemented a solution which enables users to update their Registered Location details in accordance with the FCC requirements.

As part of our service, each Customer is provided with a standard webpage which shows account information (call details etc). This page will also allow the customer to update their personal information including Registered Location details and submit these. Any change to existing Registered Location information will be passed onto the Flint database and immediately advised to our third-party-provider who will validate and update their 911 databases in real-time. In a small number of cases, (currently <1%), the change of address will be rejected. In this instance the customer will be required to re-enter and confirm the details. Where a correct address is submitted, confirmation of the change will be advised to the customer by e-mail.

In addition to enabling the Customer to update their own Registered Location details on the website, each Partner also provides a Tier 1 Support Desk for their customer base on a 1-800 Freephone number. Any changes to a Registered Location can also be notified to the Partners Support Desk on this number, who will update details on the Customers Webpage to enable these to be submitted to the third party provider in accordance with the process previously described. Again the address will be validated by the third party provider against their central address database, with the Customer advised accordingly.

Customers can also notify the Partner of any change to their Registered Address by e-mail to the Partners Support Desk and this will be updated in accordance with the process described above.

5. Technical Solution for Nomadic Subscribers

As described above, Flint have a real-time interface between our platform and our third-party provider that allows instant address validation and PSAP assignment. This API allows our subscribers to enter a new 911 address on our site and have instant verification that the address is valid and that 911 service is activated for the new site. This also allows the subscriber to have real-time error notices that will allow them to correct their address if there is an issue with it.

Our third-party provider has full PSAP boundary information for the entire United States and can instantly assign a subscriber to the appropriate PSAP as soon as they enter their address. This allows for real-time support of nomadic subscribers.

We are currently investigating a number of ways to enable automatic identification of a users location by utilizing solutions such as GPS etc and have had a number of discussions with CPE providers and other carriers regarding such solutions. It is our intention to introduce a method which enables us to automatically identify a users location at the earliest possible opportunity; however this capability is not available within the VoIP industry at present.

6. Relief Sought

Flint Telecom Inc respectfully request a limited waiver from the FCC order of 3rd June 2005 for a further period of 6 months which will enable us and our Partners to continue offering services to new customers in areas where a full E911 offer is currently unavailable.

Flint fully support the Commissions goal to protect the safety of End Users. As the Commission has previously acknowledged, the requirement to implement this solution on a nationwide basis within 120 days was an aggressive timescale, particularly when compared to previous 911 compliance timescales for Wireless Operators. However since the FCC order was issued, we have made significant efforts and incurred considerable expense in implementing processes and interconnecting with a third party supplier to meet the requirements.

As a result of such efforts Flint currently:

- Provide a Basic 911 service to 100% of our customer base,
- Provide a Basic 911 service which covers 100% of the United States,
- Provide real-time ANI/ALI information for each VoIP call,
- Have obtained and validated the Registered Location for 100% of our customers,
- Include full details of 911 / E911 VoIP limitations within our standard Terms and Conditions,
- Specifically advise all users on a sign-up page that their Registered Location must be entered and updated as necessary,
- Have a process in place for the validation of a Customers Registered Location,
- Have procedures in place to prevent Customers activating our Service unless they have provided a valid Registered Location,

- Have procedures in place to enable Customers to update their Registered Location in real-time, using both an on-line facility or by calling 1-800 numbers using the CPE provided.
- Provide stickers for attachment to Customers CPE, which advise that the location must be registered to enable 911 calls to be correctly delivered,
- Are working with a third-party-provider who can provide E911 access to over 70% of the US population, including 100% of our current Customer base,

Despite the best efforts of Flint and our third-party-provider, we are currently unable to offer a full nationwide E911 service, due to a number of circumstances beyond our control as detailed above. As outlined in Paragraph 2), work is currently ongoing with ILEC's to address current issues and introduce a nationwide E911 service. This should be available within a timescale of 2 to 6 months, although the exact timescale is dependent upon the co-operation and support available from ILEC's concerned.

Flint believe that no supplier is currently able to offer 100% E911 coverage across the United States; however we are in a strong position to ensure full compliance within the near future.

It is worth noting that some geographic areas do not support any form of E911 service at present and that this requirement will effectively prevent any VoIP supplier from offering services to new customers in these areas until E911 is available. Flint are currently able to offer Customers a Basic 911 service in such areas and ensure that they are fully aware of both the service limitations associated with this and also provide details of their validated Registered Location.

Enforcement of the regulations will however result in Flint being prevented from offering informed Customers a VoIP service with Basic 911 access in the areas concerned, whilst other VoIP carriers can continue to provide service to existing Customers without any form of 911 delivery or confirmation of their Registered Location. This would effectively limit users in such areas to using an inferior service without any 911 capability, prevent competition and be against the best interests of consumers.

As Flint are new entrants to the US VoIP market and are actively seeking to acquire a nationwide customer base, the restriction on offering VoIP services in areas where E911 access is not available will potentially make our Product unattractive for resale by our Partners and have a significant impact on our business. As a new entrant, this restriction will also have a disproportionate impact on our business in comparison to more established VoIP providers. This will put us at a severe disadvantage against our more established competitors, despite Flint making every effort to comply with the ruling and being in a more advanced position to meet the regulations that many such competitors.

Flint believe that we have demonstrated good cause for requesting a limited waiver of Sections 9.5(b) and (c) of the FCC E911 rules. Flint have made significant capital and resource investments to meet the FCC ruling and we believe that we have taken all possible steps within our control to comply with this. The absence of E911 services in certain areas is an issue which is outside the control of Flint; however preventing sales to new Customers in these areas will have a significant business impact on us and jeopardize our future growth.

We therefore respectfully request that the Commission grants this request for a Limited Waiver of 6 months to enable Flint to continue marketing VoIP services in areas where E911 capability is not yet provided whilst a Nationwide roll-out of this service is being completed. In addition, we request that the Commission grant the requested relief in an expedited fashion due to the imminent deadline for compliance.

Yours Sincerely

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25th November 2005